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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,164	11/30/2001	Richard Gore	CSCO-111868	4274

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EXAMINER	
TIV, BACKHEAN	
ART UNIT	**PAPER NUMBER**
2151	

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/007,164	GORE ET AL.	
	Examiner	Art Unit	
	Backhean Tiv	2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 November 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

BD

Detailed Action

Claims 1-26 are pending in this application.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 20-26 is not limited to tangible embodiments. In view of the Applicant's disclosure, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments and intangible embodiments. As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1,2,4-11,13,14,16-21,23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication 2003/0014464 issued to Deverill et al.(Deverill) in view of US Patent 6,578,077 issued to Rakoshitz et al.(Rakoshitz)

As per claim 1, 13, 20, Deverill teaches a computer system comprising:

a bus(Figs.1-9; shows computer systems, it is implicit that there is a bus because a bus is an essential element in order for a computer to operate);

a processor coupled to said bus(Figs.1-9; shows computer systems, it is implicit that there is a processor coupled to a bus because a processor coupled to a bus is an essential element in order for a computer to operate);

and a memory unit coupled to said bus, said processor for executing a method for monitoring electronic commerce transactions(Figs.1-9; shows computer systems, it is implicit that there is a memory unit coupled to a bus for executing an operation because a memory unit coupled to a bus is an essential element in order for a computer to operate), said method comprising the steps of:

determining application test latency (paragraph 0012; describes a process time for latency of business information); and indicating said application test latency on a display(Fig.7; shows latency).

Deverill however does not teach determining network transport latency; and indicating said network transport latency on a display.

Rakoshitz teaches network transport latency(Figs. 1-15, col.5, lines 3-15); and indicating said network transport latency on a display(Figs. 1-15, col.5, lines 3-15).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Deverill to include network transport latency as taught by Rakoshitz in order to determine the delay of packet from a source to a destination(Rakoshitz, col.5, lines 3-15).

One ordinary skill in the art at the time of the invention would have been motivated to combine the teachings of Deverill and Rakoshitz in order to provide a system to measure the latency of an application and to measure the delay of transmitting a packet(Deverill, Figs.1-9, Rakoshitz, col.5, lines 3-15).

As per claim 2, 14, 21, wherein said method for monitoring electronic commerce transactions further comprises: determining a network transport latency baseline that indicates an average of previously determined values of network transport latency for a given day and time(Deverill, Fig.7; Rakoshitz Figs.1-15); and determining an application test latency baseline that indicates an average of previously determined values of application test latency for a given day and time(Fig.7; shows "Time(dd mmm yyy hh:mm:ss)"). Motivation to combine set forth in claim 1.

As per claim 4,5,16, 23, wherein said method for monitoring electronic commerce transactions further comprises: calculating a network transport latency unloaded baseline , said network transport latency unloaded baseline indicating the lowest calculated network transport latency during a given time period(Rakoshitz, Fig.13; shows "Min"); and displaying said network transport latency, said network transport latency baseline and said network transport latency unloaded baseline on the same graph(Rakoshitz, Fig.13). Motivation to combine set forth in claim 1.

As per claim 6,7,17,24, wherein said method for monitoring electronic commerce transactions further comprises: calculating an application test latency unloaded baseline, said application test latency unloaded baseline indicating the lowest calculated

application test latency during a given time period(Rakoshitz, Fig.13); and displaying said application test latency, said application test latency baseline and said application test latency unloaded baseline on the same graph(Rakoshitz, Fig.13)

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Deverill to calculate unloaded baseline indicating the lowest calculated latency as taught by Rakoshitz to include calculating application test latency instead of transport latency in order to determine the minimal latency.

On ordinary skill in the art at the time of the invention would have been motivated to combine the teachings of Deverill and Rakoshitz in order to provide a system to calculate different types of latency.

As per claim 8,18,25, wherein application component latency is determined for each of a plurality of application components and wherein said application component latency for each of said plurality of application components can be displayed(Deverill, paragraph 038-0079; teaches The front office and back office latency for ref #1 and ref #2).

As per claim 9,10,11,19,26. an application component latency baseline and an application component latency unloaded baseline are determined wherein for each of a plurality of application components and wherein a graph can be generated for each of said plurality of application components that includes said application component latency, said application component latency baseline and said application component

latency unloaded baseline(Deverill, Fig.7; Rakoshitz Figs.1-15; Deverill in view of Rakoshitz teaches determining a network transport latency baseline that indicates an average of previously determined values of network transport latency for a given day and time and graphing the baseline).

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Deverill in view of Rakoshitz of determining network transport latency to determine application component latency in order to calculate latency for different components in a system.

One ordinary skill in the art at the time of the invention would have been motivated to modify the teachings of Deverill and Rakoshitz to provide a system where one can calculate different latency for different types of applications.

Claims 3,12,15,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Publication 2003/0014464 issued to Deverill et al.(Deverill) in view of US Patent 6,578,077 issued to Rakoshitz et al.(Rakoshitz) in further view of Office Notice.

As per claim 3, 15,22, Deverill in view of Rakoshitz teaches wherein said method for monitoring electronic commerce transactions further comprises:

determined network transport latency from previously determined values of network transport latency for a given day and time(Rakoshitz, Figs.1-19); determined application test latency from previously determined values of said application test latency for a given day and time(Deverill, Figs.1-9); and wherein said step of indicating

said network transport latency and said application test latency further includes displaying said network transport latency and displaying of said application test latency(Rakoshitz, Figs.1-19, Deverill, Figs.1-9).

Deverill in view of Rakoshitz however does not teach determining deviation. Office Notice is taken. It is obvious to one ordinary skill in the art at the time of the invention to calculate deviation of information to in order to determine the absolute difference between one number in a set and the mean of the set for the data.

One ordinary skill in the art at the time of the invention would combine the teachings of Deverill, Rakoshitz, and calculate deviation for data to provide a system to compare different types of data.

Deverill in view of Rakoshitz does not explicitly teach as per claim 12, wherein said application components include a login component, an order component, a configure component and a help component.

Office Notice is taken; it is obvious to one ordinary skill in the art at the time of the invention to use a login component, an order component, a configure component and a help component because these components are common components in e-commerce environment.

Therefore it would have been obvious to one ordinary skill in the art at the time of the invention to modify the teachings of Deverill in view of Rakoshitz to explicitly use a login component, an order component, a configure component and a help component in order to determine different latency for different components in a system.

One ordinary skill in the art at the time of the invention would have been motivated to combine the teachings of Deverill, Rakoshitz, and different types of components to provide a system to measure the latency of many application components.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

US Patent 6,633,908 issued to Leymann et al.

US Pub 2002/0147937 issued to Wolf

US Patent 6,675,054 issued to Ruberg

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Backhean Tiv whose telephone number is (571)272-3941. The examiner can normally be reached on 9 A.M.-12 P.M. and 1 -6 P.M. Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Backhean Tiv
2151
9/28/05

ZARNI MAUNG
SUPERVISORY PATENT EXAMINER